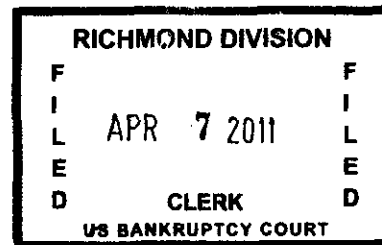


IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION



In re: §  
CIRCUIT CITY STORES, INC., et al., § Chapter 11  
Debtors. § Case No 08-35653 (KRH)  
§ Jointly Administered  
§

**RESPONSE AND REQUEST FOR HEARING TO LIQUIDATING TRUST'S FIRST  
OMNIBUS OBJECTION TO LANDLORD CLAIMS (REDUCTION OF CERTAIN  
PARTIALLY INVALID CLAIMS, RECLASSIFICATION OF CERTAIN  
MISCLASSIFIED CLAIMS, DISALLOWANCE OF CERTAIN INVALID  
CLAIMS, DISALLOWANCE OF CERTAIN LATE FILED CLAIMS,  
AND DISALLOWANCE OF CERTAIN AMENDED CLAIMS)**

Capmark Finance, Inc. ("Capmark") on behalf of Bank of America, National Association ("Bank of America") Successor by Merger to LaSalle Bank National Association and by and through their counsel Bryan Cave LLP, hereby files their Response and Request for Hearing to Liquidating Trust's First Omnibus Objection To Landlord Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claims, Disallowance of Certain Invalid Claims, Disallowance of Certain Late Filed Claims, and Disallowance of Certain Amended Claims) (the "Objection"), and states as follows:

Proof of Claim 12663

1. The Trustee has objected to the proof of claim number 12663 (the "Claim") filed by Capmark on April 30, 2009 in the amount of \$1,316, 782.37.
2. With regard to proof of claim 12663 Trustee states that:

---

Philip J. Meitl (VA Bar No. 73215)  
Bryan Cave LLP  
1155 F Street NW, Suite 700, Washington DC 20004  
(202) 508-6000 (phone)  
*Attorney for Capmark Finance Inc.*

“Reduce by \$55,983.38 for prepetition rent and \$50,333.47 for rejection damages in accordance with the Debtor’s books and records. Reduce by \$15,257.55 for attorney fees and \$2,442.67 for damages because the Debtor’s are not liable under the lease. Reduce by \$10,850.15 for insurance because the Debtors were responsible for and maintained insurance on the location prior to rejection of the lease.”

3. Rule 3001(f) of the Federal Rules of Bankruptcy Procedure provides that a “proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. Fed. R. Bankr P. 3001(f).

4. Trustee fails to offer any evidentiary support for his remaining assertions

5. After a creditor has timely and properly filed a proof of claim, the Debtor must produce substantial evidence to rebut this prima facie evidence. See in re Hemingway Transp. Inc. 993 F.2d 915, 925 (1<sup>st</sup> Cir. 1993) (“The interposition of an objection does not deprive the proof of claim of presumptive validity unless the objection is supported by substantial evidence”); In re Harford Sands, Inc. 372 F.3d 637,640-41 (4<sup>th</sup> Cir. 2004) (Creditor’s filing of proof of claim constitutes prima facie evidence of amount and validity of claim, and burden is on debtor to object to claim and to introduce evidence to rebut its presumptive validity); In re Gran, 964 F.2d 882, 827 (8<sup>th</sup> Cir. 1992) (“The objection party must then produce evidence rebutting the claimant or else the claimant will prevail.”)

6. In this case, the Claim was filed prior to the Bar Date and in accordance with the Federal Rules of Bankruptcy Procedure and provides sufficient documentary support for the Claims and the calculation of the Claims amounts. The Objection does not provide any evidence whatsoever to supports its objection to the calculation of the Claims amounts.

7. The Trustee bears the burden of proof for the disallowance of any portion of the Claims. See In re Woodmere Investors Ltd. Partnership, 178 B.R. 346, 354 (Bankr. S.D.N.Y

1995) Because Trustee has produced no evidence whatsoever in support of the proposed reductions, the Trustee has failed to meet its burden of proof and Claim 12663 should be allowed in its entirety.

Proof of Claim 14363

8. With regard to proof of claim 14363 Trustee states that:

“Claim 14363 was not filed by landlord. Debtor is addressing 14346 with the landlord.”

9. Capmark filed the Motion for Allowance Postpetition Obligations Under Expired Leases of Non-Residential Real Property on June 30, 2009. As stated in the Claim, Capmark is the assignee of leases by, and rents owing to, certain of the Debtor’s property landlords (the “Landlords” as set forth in Exhibit A hereto.

10. Circuit City rejected the all the leases and Capmark foreclosed on the majority of the properties.

11. Trustee should not be addressing the prepetition claims for this property with any of the landlords because most of the properties were foreclosed on by Capmark and the landlord no longer owns the property. Further, Capmark is the assignee of leases by and rents owing to the Debtor’s property landlords.

12. Accordingly, it is improper for Trustee to deal with the landlords on this Claim and Capmark’s Claim should survive.

WHEREFORE, Capmark respectfully requests that the Court (a) overrule the Objection as it relates to the proof of claims 12663 and 14363; (b) allow the claims as provided in Capmark’s proof of claims; and (c) grant Capmark such other and further relief as this Court deems appropriate under the circumstances.

Dated: April 6, 2011

BRYAN CAVE LLP

By: /s/ Philip J. Meitl  
Philip J. Meitl (VA Bar No. 73215)  
Bryan Cave LLP  
1155 F Street NW, Suite 700,  
Washington DC 20004  
(202) 508-6000 (phone)  
  
*Attorney for Capmark Finance Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby states that on the 6th day of April, 2011, a true and correct copy of the above foregoing instrument was sent to:

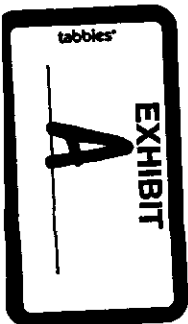
Clerk of the Bankruptcy Court  
United States Bankruptcy Court  
701 East Broad Street-Room 4000  
Richmond, VA 23219

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/s/ Philip J. Meitl  
Philip J. Meitl

982003744	1001 Pymouth Rd., Minnetonka, Minnesota 55309	Prichard J. Rieck, LLC, as assigned from Circuit Investors #4-Oklaoma City Limited Partnership, a Texas limited CC Lafayette, LLC	3/31/2009	\$42,044.33	4.7	\$281,553.22	\$187,608.35	\$62,227.22
982003748	5624 Johnston Street, Lafayette, Louisiana 70503	CC Lafayette, LLC	3/31/2009	\$31,770.87	4.7	\$159,820.22	\$149,322.15	\$9,130.19
982003745	18701 E 39th St S., Independence, Missouri 64057	Circuit Investors #5 Montgomeryville LP Independence, a Pennsylvania limited partnership	12/31/2008	\$33,324.87	1.7	\$58,651.94	\$58,651.94	
982003726	24244 Hwy 19, Clearwater, FL 32463		3/10/2009	\$40,894.81	4	\$122,884.43	\$163,979.24	\$38,340.67
982003741	9850 Joliet Rd., Country Side, IL 10586	CC Countryside 98 LLC	12/31/2008	\$53,528.67	1.7	\$80,985.32	\$80,985.34	\$16,718.51
11018736	2890 East Main, Cortland, New York 10586	Cortland B, LLC, a New York limited liability company	3/31/2009	\$58,594.84	4.7	\$189,871.68	\$275,386.75	\$18,422.71
982005545	2800 SW 196th street, Lynnwood, Washington 98038	WEC 98D Lynnwood Investment Trust, a Delaware business trust	3/31/2009	\$55,691.87	3.8	\$212,863.56	\$211,248.35	\$18,909.66
982005546	4071 Miller Road, Flint, Michigan 4807	Daniel G. Kamin Flint LLC, as assigned from WEC 98D Flint Investment Trust, a Delaware business trust	23-Feb-08	\$54,003.33	3.52	\$244,171.70	\$180,091.72	\$33,982.00
982005549	4535 West College Ave., Grand Chute, Wisconsin 54815	WEC 98D Appleton-1 Investment Trust and WEC 98D Appleton-2 Investment Trust	3/31/2009	\$38,708.33	4.7	\$158,729.62	\$186,628.15	\$23,033.92
982005328	24001 El Toro Road, Laguna Hills, California 92653	WEC 98D Laguna Investment Trust, a Delaware business trust	3/31/2009	\$58,886.87	4.7	\$281,104.77	\$328,467.35	\$44,132.22
982005547	3124 Vesali Parkway East, Vestal, New York 13850	WEC 98D Vestal Investment Trust, a Delaware business trust	3/31/2009	\$42,865.00	4.7	\$172,508.37	\$201,658.50	\$74,338.73
987004874	4800 28th St. SE, Kenilwood, Michigan 48034	Bond-Circuit VII Delaware Business Trust, a Delaware business trust	3/31/2009	\$45,372.75	4.7	\$182,515.55	\$213,251.83	\$47,210.72
987004875	7320 Mettrel St., Boardman, Ohio 44805	Bond-Circuit V Delaware Business Trust	3/31/2009	\$43,798.85	4.7	\$176,184.68	\$205,855.07	\$28,882.04



987004877	3423 Clemson Blvd, Anderson, South Carolina	Bond-Circuit II Delaware Business Trust, a Delaware business trust	3/31/2008	\$26,880.17	4.7	\$100,323.85	\$126,336.80	\$23,081.31	
987004876	3475 William Penn Hwy, Wicoma Township, Pennsylvania 15148.	WML/MPJ Business Trust, a Delaware business trust and WML/MPJ Business Trust	3/10/2009	\$76,455.82	4	\$307,550.10	\$305,823.88	\$77,346.33	
987004873	36390 Warren Road, Westland, Michigan 48185	WML/MPJ Business Trust, a Delaware business trust and WML/MPJ Business Trust	2/23/2009	\$66,228.00	3.52	\$233,210.13	\$233,115.52	\$40,821.73	
PAID IN FULL	1505 S. Colorado Blvd, Denver [Stendele], Colorado 80222	CC - Investors 1997-4, a Delaware business trust	3/31/2008						
987004871	4463 US Route 14, Crystal Lake, Illinois	CC-Investors 1997-3	12/31/2008	\$42,740.00	1.7	\$72,224.00	\$72,658.00		
982005551	4110 Atlanta Highway, Athens, Georgia	Kel-Athens, LLC, a Massachusetts limited liability company	12/31/2008	\$26,182.92	1.7	\$26,182.92	\$47,927.96	\$4,920.23	
600870462	9950 Maryland Drive, Richmond, Virginia		2/28/2008				\$465,930.31		
987004872	8405 E. Kellogg Dr., Wichita, KS		11/10/2008	\$126,927.11	3.7	\$503,706.44		\$123,886.72	
987004870	1901 Okeechobee Blvd., West Palm Beach, FL		3/31/2008	\$46,790.00	0	\$0.00	\$0.00		
			3/31/2008	\$56,783.00	4.7	\$199,531.75	\$206,890.10	\$59,990.80	
TOTAL						\$3,765,696.06	\$3,986,726.19	\$52,404.71	\$763,321.16
TOTAL ADMINISTRATIVE CLAIM						\$1,120,367.89			\$80,609.88

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

In re:	§	
	§	Chapter 11
CIRCUIT CITY STORES, INC., et al.,	§	
	§	Case No 08-35653 (KRH)
Debtors.	§	
	§	Jointly Administered

**CAPMARK FINANCE, INC.'S REQUEST FOR HEARING**

Capmark Finance, Inc. ("Capmark"), on behalf of Bank of America, National Association (Bank of America), by and through its counsel Bryan Cave LLP, hereby files its Request for Hearing on its Response to Liquidating Trust's First Omnibus Objection to Landlord Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claims, Disallowance of Certain Late Filed Claims, and Disallowance of Certain Late Filed Claims, And Disallowance of certain Amended Claims) (the "Response").

Capmark filed the Response on April 6, 2011. As set forth in the Response, the objection to proof of claims 12663 and 14363 (the "Claims") should be denied and the Claims should be allowed in their entirety.

WHEREFORE, Capmark Finance, Inc. respectfully requests the Court schedule a hearing on its Response for 2:00 p.m. on May 11, 2011 and grant such other and further relief as the Court deems just and proper.

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*Attorney for Capmark Finance Inc.*

Dated this 6th day of April, 2011.

Respectfully submitted,

**BRYAN CAVE LLP**

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Attorney for Capmark, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 6, 2011, a true and correct copy of the foregoing was served through the Court's ECF system to all parties consenting to service through same, and on all parties listed on the attached service list by overnight mail.

/s/Philip J. Meitl  
Philip J. Meitl